

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

OSVALDO JIMENEZ CABRERA,

Plaintiff(s),

vs.

NEW ALBERTSON'S, INC.,

Defendant(s).

Case No. 2:13-cv-0056-LDG-NJK

ORDER GRANTING SECOND  
MOTION TO COMPEL, GRANTING  
REQUEST FOR ATTORNEY'S FEES,  
AND SETTING HEARING ON  
FURTHER SANCTIONS  
(Docket No. 16)

Pending before the Court is Defendant's second motion to compel and for sanctions, including dismissal of Plaintiff's claims and for attorney's fees, filed on May 29, 2013. Docket No. 16. Plaintiff's response was due within 14 days of service of that motion. Local Rule 7-2(b). To date, no extension has been sought and no response has been filed. As such, the Court **GRANTS** the motion to compel as unopposed. *See* Local Rule 7-2(d). Following the hearing set below, the Court will set (as appropriate) a date by which the discovery compelled must be served.<sup>1</sup>

The Court further **GRANTS** Defendant's request for reasonable attorney's fees as unopposed. *See* Fed. R. Civ. P. 37(a)(5)(A). No later than July 3, 2013, Defendant shall submit a declaration outlining the fees incurred in bringing its motion to compel. No later than July 9, 2013, Plaintiff may file a response to that declaration. The Court has not yet determined whether these attorney's fees should be awarded against Plaintiff, Plaintiff's counsel, or both. *See* Fed. R. Civ. P. 37(a)(5)(A)

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<sup>1</sup> The Court defers ruling at this time on Defendant's request to extend discovery deadlines.

1 (providing for sanction of expenses against party, attorney advising party, or both). To the extent they  
2 wish to address that issue, Plaintiff and Plaintiff's counsel may do so in any response to Defendant's  
3 declaration of fees.

4 With respect to Defendant's request for further sanctions, including dismissal of Plaintiff's  
5 claims, the Court hereby **SCHEDULES** that aspect of the motion for hearing for 3:00 p.m. on July 10,  
6 2013, in Courtroom 3D. Lead counsel for both parties are required to attend. Plaintiff is also required  
7 to attend in person. Failure to comply with this order to appear may result in the imposition of  
8 sanctions, up to and including case-terminating sanctions.

9 Lastly, the Court provides notice to Plaintiff and Plaintiff's counsel that, in addition to the  
10 sanctions sought by Defendant, the Court is considering imposing a court sanction in the amount of up  
11 to \$1,000 for their failure to abide by the Court's order on the first motion to compel (Docket No. 14).  
12 *See* Fed. R. Civ. Pro. 37(b)(2)(A) (the court may issue "just orders" for failure to comply with  
13 discovery orders); Fed. R. Civ. Pro. 16(f) (same for pre-trial orders); Local Rule IA 4-1 (the court may  
14 impose "any and all appropriate sanctions" for failure to comply with any court order). Plaintiff and  
15 Plaintiff's counsel shall be prepared to discuss the appropriateness of such a fine at the July 10, 2013  
16 hearing.

17 IT IS SO ORDERED.

18 DATED: June 28, 2013

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21 NANCY J. KOPPE  
22 United States Magistrate Judge  
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